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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,429	12/07/2005	Manfred Guggolz	095309-56039US	4119
23911 7590 04/21/2008 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER ZANELLI, MICHAEL J	
			ART UNIT 3661	PAPER NUMBER
			MAIL DATE 04/21/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/528,429

**Applicant(s)**

GUGGOLZ ET AL.

**Examiner**

Michael J. Zanelli

**Art Unit**

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-32 is/are allowed.
- 6) ☒ Claim(s) 20-22 and 33-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/18/05; 3/20/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. This application has been examined. The preliminary amendment filed 3/18/05 has been entered. Claims 20-38 are pending.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
3. The IDS filed 3/18/05 and 3/20/08 have been considered as indicated. Note that the foreign search report merely satisfies the relevancy requirement and is not citable "prior art" in and of itself.
4. The drawings are objected to because blocks 14, 16, 48, 49 and 51 of Fig. 1 require descriptive legends.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. Claims 20-22 and 33-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. As per claim 20, the claim is unclear with regards to the "establishing" step. It is unclear as to the relationship between the "profile parameters" and the change in rotational speed. Are the profile parameters based on the rotating speed itself or are the parameters variables which are correlated with specific rotational speeds to create a "profile" of parameters vs. speed? Also at line 9 insert --the-- or --said-- before "current" to provide clear antecedence with the established current profile recited at line 7.

B. As per claim 33, note comments above regarding the relationship between the profile parameters and the rotational speed.

C. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 33, as best interpreted given the deficiency noted above, is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Graf (2002/0107626).

A. As per claim 33, Graf discloses a method of operating a drive train of a motor vehicle which includes a control device to control a drive motor (engine) to change rotational speed during transmission shifts, the method including determining operating parameters relative to changes in rotational speed of the engine and storing “profiles” based thereon which are used for controlling an automatic transmission during starting movement of the motor vehicle [0024, 0037-0038, 0054-0057, 0060]. One of ordinary skill in the art would have correlated the “profile parameters” of the claimed invention with the “profile parameters” disclosed by Graf insofar as Graf correlates the engine speed with various operating states of the drive train.

9. Claims 20-32 and 34-38 are distinguishable over the prior art. As per claim 20, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, a method for operating a drive train of a motor vehicle which includes determining corrected profile parameters based on pre-stored profile parameters and current profile parameters. The current profile parameters are established when an actuated change in the rotational speed of the drive motor (i.e., engine), from a starting rotational speed to a target rotational speed during a neutral position of the variable speed transmission, is performed. As per claim 23, as above for claim 20 whereby the “profile parameter” is replaced by “gradient of the change in rotational speed”. In addition claim 23 includes determining a corrected reaction

time based on a previously stored reaction time and a current reaction time established as a time period between an actuation time and a time at which change in a status variable of the drive train exceeds an adjustable limiting value. As per claim 34, as above with regards to “profile parameters” defined as reaction times or gradient of the changes in rotational speed. Dependent claims 21-22, 24-32 and 35-38 are distinguishable for at least the same reasons.

10. Claims 23-32 are allowed. Claims 20-22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claims 34-38 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited documents are of general interest.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (571) 272-6969. The examiner can normally be reached on Monday-Thursday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J. Zanelli/  
Primary Examiner  
Art Unit 3661